

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MANUEL NIEVES,	§
	§
Defendant Below-	§ No. 703, 2011
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0107022700
Plaintiff Below-	§
Appellee.	§

Submitted: January 3, 2012
Decided: January 12, 2012

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 12th day of January 2012, it appears to the Court that:

(1) On December 20, 2011, the Court received Manuel Nieves’ notice of appeal from a Superior Court order dated November 16, 2011. The Superior Court’s order denied as untimely Nieves’ request for de novo review of a Commissioner’s order dated October 3, 2011. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before December 16, 2011.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing Nieves to show cause why the appeal should not be

dismissed as untimely filed.¹ Nieves filed a response to the notice to show cause on January 3, 2012. He asserts that his appeal should not be deemed late under Supreme Court Rule 11 because three days should have been added to the 30 day time limit because he was served with the Superior Court's order by mail. Nieves also contends that weekends and the Thanksgiving holiday should be excluded from the 30 day computation.

(3) Nieves is mistaken. Supreme Court Rule 11 relates to service of papers upon one party by another party after an appeal has commenced. It has no application to the time limitation that governs the initiation of an appeal.²

(4) Time is a jurisdictional requirement.³ A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.⁴ An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁵ Unless Nieves can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁶

¹Del. Supr. Ct. R. 6(a)(ii).

²*Johnson v. State*, 1990 WL 168268 (Del. Sept. 21, 1990).

³*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

⁴Del. Supr. Ct. R. 10(a).

⁵*Carr v. State*, 554 A.2d at 779.

⁶*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

(5) There is nothing in this case to reflect that Nieves' untimely filing is attributable to the actions of court personnel. Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice